

## § 760.703

## 7 CFR Ch. VII (1–12 Edition)

rice, medium or short grain rice, upland cotton, soybeans, or sweet potatoes on the same acreage after the first planting of that same crop that failed.

### § 760.703 Producer eligibility requirements.

(a) A producer must meet all of the requirements in this subpart to be eligible for a CAP payment.

(b) To be eligible, a producer must be an individual or entity who is entitled to an ownership share of an eligible crop and who has the production and market risks associated with the agricultural production of the crop on a farm. An eligible producer must be a:

- (1) Citizen of the United States;
- (2) Resident alien, which for purposes of this subpart means “lawful alien” as defined in 7 CFR part 1400;
- (3) Partnership of citizens of the United States; or
- (4) Corporation, limited liability corporation, or other farm organizational structure organized under State law.

(c) To be eligible, a producer must have:

- (1) Produced a 2009 crop year planted or considered planted long grain rice, medium or short grain rice, upland cotton, soybean, or sweet potato crop in a 2009 eligible disaster county, and
- (2) Suffered a five percent or greater loss in an eligible disaster county in 2009. A list of the disaster counties for CAP is available on the FSA Web site and at FSA county offices.

### § 760.704 Time and method of application.

(a) To request a CAP payment, the producer must submit a CAP application on the form designated by FSA to the FSA county office responsible for administration of the farm.

(b) Producers submitting an application for a crop must certify that they suffered a five percent or greater loss of the crop on the farm in a disaster county and that they have documentation to support that certification as required in § 760.713.

(c) Once submitted by a producer, the application is considered to contain information and certifications of and pertaining to the producer's crop and farm regardless of who entered the information on the application.

(d) Producers requesting benefits under CAP must certify the accuracy and truthfulness of the information provided in the application as well as with any documentation that may be provided with the application or documentation that will be provided to FSA in substantiation of the application. All certifications and information are subject to verification by FSA.

(e) Producers applying for CAP must certify that they have an eligible ownership share interest in the 2009 crop acreage that sustained a five percent or greater loss. The determination and certification by a producer that a crop suffered the requisite five percent or greater farm crop loss is the expected quantity of production of the crop less the actual production of the crop.

(f) In the event that the producer does not submit documentation in response to any request of FSA to support the producer's application or documentation furnished does not show a crop loss of at least five percent as claimed, the application for that crop will be disapproved in its entirety. For quantity losses, producers need to apply a standard similar to the historic yield provisions used under previous ad hoc disaster programs. Those provisions provided that a historic yield was the higher of a county average yield or a producer's approved yield. Thus, if an applicant is determining whether a farm has a crop that suffered a loss of five percent or greater on the farm's planted and considered planted acreage, the applicant could compare the amount successfully produced in 2009 from those planted and considered planted acres to what the participant expected to produce from that acreage using either the county average yield (which may be obtained from FSA by request) or based on analysis of approved actual production history yields that may exist for producers of the crop on the farm.

(g) Unless otherwise determined necessary by FSA, producers will not be required to submit documentation of farm crop production or loss at time of application. FSA's decision not to require proof, documentation, or evidence in support of any application at